



January 20, 2006

SENATE BILL No. 148

DIGEST OF SB 148 (Updated January 17, 2006 2:04 pm - DI 44)

Citations Affected: IC 6-3.5.

Synopsis: Use of CAGIT revenue by certain counties. Provides that county adjusted gross income tax (CAGIT) revenue in Elkhart County and Marshall County may also be used to operate and maintain jail facilities, juvenile court, detention, and probation facilities, other criminal justice facilities, and related buildings and parking facilities (in addition to the financing, construction, acquisition, renovation, and equipment of those facilities permitted under existing law).

Effective: Upon passage.

Riegsecker, Heinold, Mishler

January 9, 2006, read first time and referred to Committee on Tax and Fiscal Policy.
January 19, 2006, amended, reported favorably — Do Pass.

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SB 148—LS 6487/DI 113+



January 20, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 148

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.5-1.1-2.8 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.8. (a) This
3 section applies to:

4 (1) a county having a population of more than one hundred
5 eighty-two thousand seven hundred ninety (182,790) but less than
6 two hundred thousand (200,000); and

7 (2) a county having a population of more than forty-five thousand
8 (45,000) but less than forty-five thousand nine hundred (45,900).

9 (b) The county council may, by ordinance, determine that additional
10 county adjusted gross income tax revenue is needed in the county to:

11 (1) finance, construct, acquire, improve, renovate, or equip:

12 (A) jail facilities;

13 (B) juvenile court, detention, and probation facilities;

14 (C) other criminal justice facilities; and

15 (D) related buildings and parking facilities;

16 located in the county, including costs related to the demolition of
17 existing buildings and the acquisition of land; and

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(2) repay bonds issued or leases entered into for the purposes described in subdivision (1).

(c) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to operate or maintain any of the facilities described in subsection (b)(1)(A) through (b)(1)(D) that are located in the county. The county council may make a determination under both this subsection and subsection (b).

~~(c)~~ **(d)** In addition to the rates permitted by section 2 of this chapter, the county council may impose the county adjusted gross income tax at a rate of:

(1) fifteen-hundredths percent (0.15%);

(2) two-tenths percent (0.2%); or

(3) twenty-five hundredths percent (0.25%);

on the adjusted gross income of county taxpayers if the county council makes ~~the~~ a finding and determination set forth in subsection (b) **or (c).** **The tax rate may not be imposed at a rate greater than is necessary to carry out the purposes described in subsections (b) and (c), as applicable.**

(e) If the county council imposes the tax under this section to pay for the purposes described in both subsections (b) and (c), when:

(1) the financing, construction, acquisition, improvement, renovation, and equipping described in subsection (b) are completed; and

(2) all bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid;

the county council shall, subject to subsection (d), establish a tax rate under this section by ordinance such that the revenue from the tax does not exceed the costs of operating and maintaining the jail facilities described in subsection (b)(1)(A).

(f) The tax imposed under this section may be imposed only until the later of the date on which:

(1) the financing, construction, acquisition, improvement, renovation, and equipping described in subsection (b) are completed; or

(2) the date on which the last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid; or

(3) an ordinance adopted under subsection (c) is rescinded.

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(g) The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty (20) years.

(d) If the county council makes a determination under subsection (b), the county council may adopt a tax rate under subsection (c). The tax rate may not be imposed at a rate greater than is necessary to pay the costs of carrying out the purposes described in subsection (b)(1).

(e) (h) The county treasurer shall establish a criminal justice facilities revenue fund to be used only for purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the criminal justice facilities revenue fund before making a certified distribution under section 11 of this chapter.

(f) (i) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

- (1) may be used only for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued or leases entered into for any or all the purposes described in subsection (b).

(g) (j) Notwithstanding any other law, funds accumulated from the county adjusted gross income tax imposed under this section after:

- (1) the completion of the financing, construction, acquisition, improvement, renovation, and equipping described in subsection (b);
- (2) the payment or provision for payment of all the costs for activities described in subdivision (1);
- (3) the redemption of bonds issued; and
- (4) the final payment of lease rentals due under a lease entered into under this section;

money remaining in the criminal justice facilities revenue fund established under subsection (h) after the tax imposed by this section is terminated under subsection (f) shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

SECTION 2. IC 6-3.5-1.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Except as provided in subsection (b), one-half (1/2) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 8 of this chapter to the appropriate

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county treasurer on May 1 and the other one-half (1/2) on November 1 of that calendar year.

(b) This subsection applies to a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Notwithstanding section 9 of this chapter, the initial certified distribution certified for a county under section 9 of this chapter shall be distributed to the county treasurer from the account established for the county under section 8 of this chapter according to the following schedule during the eighteen (18) month period beginning on July 1 of the year in which the county initially adopts an ordinance under section 2 of this chapter:

(1) One-fourth (1/4) on October 1 of the year in which the ordinance was adopted.

(2) One-fourth (1/4) on January 1 of the calendar year following the year in which the ordinance was adopted.

(3) One-fourth (1/4) on May 1 of the calendar year following the year in which the ordinance was adopted.

(4) One-fourth (1/4) on November 1 of the calendar year following the year in which the ordinance was adopted.

Notwithstanding section 11 of this chapter, the part of the certified distribution received under subdivision (1) that would otherwise be allocated to a civil taxing unit or school corporation as property tax replacement credits under section 11 of this chapter shall be set aside and treated for the calendar year when received by the civil taxing unit or school corporation as a levy excess subject to IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7. Certified distributions made to the county treasurer for calendar years following the eighteen (18) month period described in this subsection shall be made as provided in subsection (a).

(c) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

(2) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, or equipping, **operating, or maintaining** facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.8 of this chapter;

(3) revenue that must be used to pay the costs of construction, improvement, renovation, or remodeling of a jail and related buildings and parking structures under section 2.7, 2.9, or 3.3 of this chapter;

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(4) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; or

(5) revenue that must be used to pay the costs of constructing, acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter;

distributions made to a county treasurer under subsections (a) and (b) shall be treated as though they were property taxes that were due and payable during that same calendar year. Except as provided by subsection (b), the certified distribution shall be distributed and used by the taxing units and school corporations as provided in sections 11 through 15 of this chapter.

(d) All distributions from an account established under section 8 of this chapter shall be made by warrants issued by the auditor of the state to the treasurer of the state ordering the appropriate payments.

SECTION 3. IC 6-3.5-1.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

(2) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, ~~or~~ equipping, **operating, or maintaining** facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.8 of this chapter;

(3) revenue that must be used to pay the costs of construction, improvement, renovation, or remodeling of a jail and related buildings and parking structures under section 2.7, 2.9, or 3.3 of this chapter;

(4) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; or

(5) revenue that must be used to pay the costs of constructing, acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter;

the certified distribution received by a county treasurer shall, in the manner prescribed in this section, be allocated, distributed, and used by the civil taxing units and school corporations of the county as certified shares and property tax replacement credits.

(b) Before August 10 of each calendar year, each county auditor shall determine the part of the certified distribution for the next

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succeeding calendar year that will be allocated as property tax replacement credits and the part that will be allocated as certified shares. The percentage of a certified distribution that will be allocated as property tax replacement credits or as certified shares depends upon the county adjusted gross income tax rate for resident county taxpayers in effect on August 1 of the calendar year that precedes the year in which the certified distribution will be received by two (2) years. The percentages are set forth in the following table:

COUNTY	PROPERTY TAX	
	REPLACEMENT CREDITS	CERTIFIED SHARES
ADJUSTED GROSS INCOME TAX RATE		
0.5%	50%	50%
0.75%	33 1/3%	66 2/3%
1%	25%	75%

(c) The part of a certified distribution that constitutes property tax replacement credits shall be distributed as provided under sections 12, 13, and 14 of this chapter.

(d) The part of a certified distribution that constitutes certified shares shall be distributed as provided by section 15 of this chapter.

SECTION 4. An emergency is declared for this act.

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SENATE MOTION

Madam President: I move that Senators Heinold and Mishler be added as coauthors of Senate Bill 148.

RIEGSECKER

 COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 148, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 3 with "[EFFECTIVE UPON PASSAGE]".

Page 2, line 3, delete "This subsection applies only to the county specified in".

Page 2, line 4, delete "subsection (a)(1)".

Page 2, line 19, delete "(b)(1)" and insert "**(b)**".

Page 2, line 21, delete "This subsection applies only to the county specified in".

Page 2, line 22, delete "subsection (a)(1)".

Page 2, line 35, delete "This subsection applies only to the county specified in".

Page 2, line 36, delete "subsection (a)(2)".

Page 2, line 40, strike "or".

Page 3, line 2, delete "paid." and insert "paid; **or**".

Page 3, between lines 2 and 3, begin a new line block indented and insert:

"(3) an ordinance adopted under subsection (c) is rescinded."

Page 3, line 25, delete "This subsection applies only to a county that has not made".

Page 3, line 26, delete "a determination under subsection (c)".

Page 3, strike lines 27 through 36.

Page 3, line 37, before "shall" insert "**money remaining in the criminal justice facilities revenue fund established under subsection (h) after the tax imposed by this section is terminated under subsection (f)**".

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 148 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 11, Nays 0.

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